

COMPLAINTS PROCESS

1ST APRIL 2017

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PART 1 – THIS PROCESS

Introduction

1. Luton Council welcomes complaints. We want to provide excellent services and deliver them well, first time for our customers. Where we fail to do so we expect officers to take ownership and work with customers to resolve any legitimate issues. There may be times, however, when customers feel we have let them down and wish to make a complaint.
2. We recognise the value of customer complaints and welcome them as an important form of feedback on our services and as a means to continuously review and improve the services we offer. We will learn from and use the information from complaints to drive forward improvements and respond positively to our customers' needs and expectations. This Complaints Process sets out what we consider a Complaint to be, how we will handle them and how we will monitor the effectiveness of the operation of this Process.

Objectives

3. We aim to provide high quality public services which respond to the needs of Luton's customers. We acknowledge that sometimes we will not achieve the desired standard and we are committed to reviewing how we can improve this when we are told that we did not do well. We are committed to making it easy for people to provide feedback to us, and to using this feedback to improve our services. We want to resolve all complaints quickly and effectively, resolving them straight away where possible and carrying out thorough investigations where closer consideration is needed.

What is a Complaint?

4. A Complaint, for the purpose of this Process, is defined as:

An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by us, our staff or our contractors.

Complaints not covered by this Process

5. When never possible, we will deal with all Complaints under this Process except where there are other complaints and appeals procedures which apply to them, including but not limited to:-
 - Matters for which there is a statutory right of appeal
 - Complaints where legal proceedings, court or tribunal action is being taken (although related issues that are not subject to legal proceedings may be considered)
 - Most social services complaints concerning adults and children where special procedures apply by law

- Employee complaints about terms and conditions of employment, working conditions or personnel issues which come under the Employee Complaints Procedure
 - Matters which are subject to an insurance claim
 - Complaints that are submitted anonymously (although we may still investigate)
 - Complaints about schools, as they have their own complaints process
 - Complaints about elected members of the Council, for which there is a separate complaint process
6. Complaints about issues which took place more than 12 months before the date of the complaint will not normally be considered, or 6 months for complaints which would fall under the jurisdiction of the Housing Ombudsman.
 7. Complaints which are substantially about issues that we have already considered will not be dealt with under this Process.

Luton has a separate process and procedure as to how it manages customers who may be Persistent Complainants, which includes those who are habitual and vexatious in their manner.

How we receive Complaints

8. Complaints may be received:
 - in person;
 - by telephone;
 - in writing (letter and email).

Support and advocacy

9. Some people are unsure how to go about making a Complaint, or how best to put their case. Whenever possible we will offer appropriate assistance/support when requested. Information Governance Officers will advise departments and Customers about this.
10. Complainants may ask somebody they trust to help them with their Complaint or to act on their behalf. This may be, for example, a friend, a relative, a voluntary organisation or a local Councillor. The Council will ask for written consent for this person or organisation to have access to personal information and to act on the Complainant's behalf. Complaints made on behalf of other people, for example by Councillors, Members of Parliament or other Organisations, will be dealt with using the Procedures set out in this Policy and within the same timescales.

Anonymous Complaints

11. Some people may hesitate to complain because they are worried that it could result in a poorer service to themselves or their household. The Council will treat all Complaints against it in strictest confidence, supporting a Customer's

right to complain; however, it may not always be possible to investigate a Complaint that has been made anonymously.

Complaints against staff

12. If a Complaint regarding staff actions or behaviour is found to be valid, then the issue will be referred to the appropriate Council policy or procedure to be investigated. This will be regarded as an outcome for this Process. The Complainant will not be informed of the detail of any action taken under an employee policy or procedure, due to the duty of confidentiality which we owe our staff.

Time limits for Complaints

13. We will not normally consider a Complaint that is raised more than twelve months after the individual first became aware of the issue that they want to complain about. This is in line with good practice as set by the Local Government Ombudsman. There are exceptions to this where the Council accepts an argument that such a delay was reasonable.

Monitoring, evaluation and reporting

14. We will keep a record of Complaints, including dates received, acknowledged, and responded, category of the Complaint, actions taken and lessons learned.

Maintaining confidentiality

15. The Data Protection Act 1998 regulates the way in which organisations can use personal information. When dealing with local authority complaints there are specific issues which need to be kept in mind.
 - A Complaint cannot be discussed with, or information disclosed to, a third party without the written permission of the Complainant. For example, where an advice worker or solicitor is making a Complaint on behalf of a customer a letter of authorisation must be obtained.
 - An exception to this rule allows a constituent's Councillor or MP to be given information when following up a Complaint made on their behalf.

Management of Unreasonable Complainant Behaviour

16. The Council has a separate process and procedure about how it manages Customer's whose behaviour may be persistent or vexatious or constitute harassment. This process should be read in conjunction with the Council's Policy for the Management of Unreasonable Complainant Behaviour.

The Public Sector Fluency Duty

17. Local authorities are required to ensure their public-facing staff speak an adequate level of English. If a member of the public feels that a public-facing

local authority worker has insufficient proficiency in spoken English for the performance of their role, they can make a formal Complaint to the authority.

18. For the purposes of the fluency duty, a legitimate Complaint is one about the standard of the English spoken by a member of staff, in a public-facing role. It can be made by a member of the public or someone acting on his or her behalf complaining that the authority has not met the fluency duty.
19. A complaint about a member of staff's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate Complaint about the fluency duty.
20. Following the receipt of a Complaint, public authorities must assess its merits against the necessary standard of spoken English fluency required for the role in question. This should be undertaken through an objective assessment against clear criteria set out in the role specification or against the level of fluency descriptors relevant to the role in question.
21. If the Complaint is upheld, we will consider what steps can be taken to meet the fluency duty. These steps may include specific training, retraining or assessment, re-deployment or dismissal. We will refer to section 3 of the Code of Practice on the English language requirements for public sector workers and ensure they take account of the:
 - nature of the Complaint;
 - information received from the Complainant or their representative; and
 - the Complainant's expectations of an outcome.
22. Members of staff who are the subject of a Fluency Duty Complaint will be notified of the Complaint and the action being taken in relation to it. They will be given the opportunity, as soon as practicable, to give their own account of the facts leading to the Complaint.

PART 2: THE PROCEDURE

Introduction

1. This Process has two formal stages, but where possible we will resolve complaints informally, with the aim of providing a speedy resolution for customers.

Early resolution

2. Upon receipt of the Complaint, the relevant officer will look at the issues contained within the Complaint. They will look at whether it appears possible to resolve the issue quickly and informally. The officer will generally contact the Complainant to discuss the issue with the aim of informal resolution.
3. We will aim to achieve resolution speedily and the timescale will be negotiated with the Complainant. If the Complainant feels that early resolution is taking too long the Complainant may escalate the issue to the formal Complaint Stage.
4. We aim to record Issues dealt with informally to enable us to identify and to tackle issues that were concluded through early resolution. This could include minor issues that are regularly the subject of complaints, as well as more significant issues that have been resolved without using the formal Procedure.
5. If the Complainant refuses the offer of early resolution, or if we are unable to reach an agreement, the Complaint will be treated formally

Stage 1 Complaint - Investigation

6. This Stage will generally be undertaken by the service being complained about, to provide an opportunity for them to put right any mistakes. The investigation will be carried out by a relevant officer or team manager (“the Investigating Officer”). Where the complaint is about a specific officer, a different officer or their line manager will undertake the complaint investigation.
7. We will acknowledge receipt of the Complaint within 3 working days of either receiving the Complaint or agreeing to use the formal process after attempting informal resolution. Our acknowledgement can be made verbally or in writing and will include:
 - an initial acknowledgement of the issue that has caused the Complaint;
 - contact details for who will be dealing with the Complaint; and
 - a date or timeframe in which a response can be expected .
8. The role of the Investigating Officer is to:

- ascertain the nature of the Complaint and/or concerns of the Complainant;
 - consider the service response to ensure that the Complainant was not treated unfairly (that is, any form of maladministration or injustice);
 - make a decision as to how to resolve the Complaint (if possible); and
 - write a letter to the Complainant offering an explanation of all issues and concerns and setting out any proposed resolution.
9. Where different services are involved, one officer will take the lead liaising with other services as appropriate, with the aim of sending one response. It may sometimes be necessary however, to provide separate responses depending on the subject matter.
 10. We will send a full response with 15 working days unless there are exceptional circumstances.
 11. At times it may be appropriate to put a hold on responding to a Complaint, for example where a formal appeal or legal proceedings are in progress. Where this happens, the Complainant will be kept informed of the new timescales.
 12. At the conclusion of the Stage 1 Investigation, our response can be provided by letter, email, face to face or by telephone. Where a response is given by telephone or in person we will provide written confirmation of the discussion.
 13. As part of our Stage 1 response, we will also advise the Complainant how they can take their Complaint further should they wish to do so.

Stage 2 Complaint – Review

14. Where a Complainant remains dissatisfied following our investigation at Stage 1, they can ask for the Complaint to be looked at again by a more senior Council officer. This Stage will normally be undertaken by the appropriate Service Manager.
15. The Council may make the decision to not proceed with a Stage 2 Review if it believes there is sufficient justification, such as that there can be no other position for the Council to take or the Complaint is an unwarranted criticism of an officer. Such complaints will generally be referred directly to the relevant Ombudsman.
16. At Stage 2 we will ask the Complainant to provide details, in writing whenever possible, explaining why they are still dissatisfied, what resolution they would like and to provide any additional information to clarify the case.

17. At Stage 2, the appropriate Service Manager will review the Complaint (“the Reviewing Officer”) or where appropriate appoint a senior Council officer to carry out the review. The Complaint will be acknowledged in the same way as at Stage 1.
18. Where a Complaint covers more than one Department, one Service Manager may take the lead but will liaise with other Service Managers as appropriate, with the aim of providing one response to the Complainant.
19. The role of the Reviewing Officer is to:
 - review the Complaint to ensure that the Complainant was not treated unfairly or unjustly at any stage (that is, some form of maladministration);
 - ensure that the Council’s relevant policies and procedures were followed;
 - consider whether there are any other ways in which the Complaint could be resolved; and
 - write a letter to the Complainant setting out the findings of the review, with a full explanation of the reasons for their conclusions and any further proposal for resolution.
20. We will send a full response with 25 working days unless there are exceptional circumstances.

Next steps

21. In our final response, we will inform the Complainant of their right to take the Complaint further if they remain dissatisfied. Our written response will contain the contact details for the appropriate Ombudsman.
22. There is no further right of appeal to the Council following completion of a review at Stage 2 of this Process .

Ombudsman

23. Contact details for the Local Government Ombudsman are as follows:

Website: www.lgo.org.uk
Address: Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH
Telephone: 0845 602 1983

24. Contact details for the Housing Ombudsman are as follows:

Website: www.housing-ombudsman.org.uk
Address: Housing Ombudsman Service
81 Aldwych
London
WC2B 4HN
Telephone: 0300 111 3000

Appendix A

Policy on the Management of Unreasonable Complainant Behaviour

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Background

1. This document supports Luton Borough Council's Complaints Procedures (Corporate, Children's Social Care, Adults' Social Care and Housing). It sets out how the Council will deal with the very small number of occasions where complainant behaviour is felt to be unreasonable. It aims to ensure that all complainants can have fair access to the Complaints Procedure.

Introduction

2. Some customers may make or pursue complaints in a persistent or vexatious way which can either slow down the investigation of their complaint or can have significant resource issues for the Council. This policy is to ensure unreasonable and unreasonably persistent behaviour is managed and that all complaints are dealt with fairly. It sets out clearly for staff and complainants what is expected of them, what they can do and who can authorise actions. It will help us assess and monitor how we deal with, and respond to, unreasonably persistent or vexatious behaviour.
3. This policy differentiates between 'persistent' complainants and 'unreasonably persistent' complainants. People may complain because they feel that the Council has not dealt with their complaint properly and are not prepared to leave the matter there. Their complaint may be justified and it will have been appropriate for them to be persistent.
4. However, some complainants may have justified complaints but may pursue them in inappropriate ways. Others may pursue complaints which appear to have no substance or which have already been investigated and determined. Their contacts with the Council may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved.
5. If a complainant's behaviour adversely affects the Council's ability to do its work and provide services to others, such behaviour may need to be addressed by placing restrictions on how they contact the Council. This not only includes how they contact the council officers through but may also include contact with elected members.
6. Some individuals that staff may consider to be vexatious or persistent complainants may be behaving as such because of a specific circumstance or difficulty. Where this is indicated, any concerns that staff may have about a complainant's vulnerability will be raised immediately with the Head of Service in line with any policies relating to this. Where the complainant has specific needs, support will be provided to find an advocate.
7. Before deciding whether the policy should be applied, the Council will be satisfied that:
 - The complaint is being or has been investigated properly;

- Any decision reached has been reviewed and is found to be appropriate;
- Communications with the complainant have been adequate;
- Appropriate advice has been provided to help the complainant fully understand the process; and
- The complainant is not now providing any significant new information that might affect the Council's view of the complaint.

Management of Unreasonable Complainant Behaviour

8. This guidance covers 'unreasonable complainant behaviour', which may include one or two isolated incidents, as well as 'unreasonably persistent behaviour', which is usually an accumulation of incidents or behaviour over a longer period.
9. In this policy, unreasonable and unreasonably persistent complainants are those who, because of the nature or frequency of their contacts hinder the Council's ability to consider their, or other people's, complaints.
10. Examples of unreasonable by complainants include:
 - Refusing to specify the grounds of a complaint, despite offers of assistance;
 - Refusing to co-operate with the complaints investigation process;
 - Refusing to accept that certain issues are not within the scope of the complaints procedure;
 - Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice;
 - Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced;
 - Changing the basis of the complaint as the investigation proceeds;
 - Denying or changing statements he or she made at an earlier stage;
 - Introducing trivial or irrelevant new information at a later stage;

- Raising numerous, detailed but unimportant questions; insisting they are all answered;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of organisations;
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses;
- Submitting repeat complaints with minor additions/variations that the complainant insists make these 'new' complaints;
- Submitting repeat complaints with minor additions/variations that the complainant insists make these 'new' complaints; or
- Refusing to accept the decision made; repeatedly arguing points with no new evidence
- Abusive or offensive language in person or in writing (including e-mails)

11. This list is not exhaustive and other behaviour may fall into this category.

12. Based on the circumstances and behaviour of the complainant and their complaint, any restrictive actions will be tailored accordingly. In some circumstances, the Council may decide that it is appropriate to severely reduce or completely stop responding to a particular complainant.

Stage 1

13. Before any action is taken to restrict access or contact, complainants will be sent a copy of this policy by an Information Governance Manager or Information Governance Senior Assistant with a warning that restrictive actions may need to be applied if their behaviour continues.

Stage 2

14. Actions that may be considered to restrict access and contact include:

- Placing limits on the number and duration of contacts with staff per week or month or other appropriate period.
 - Offering a restricted time slot for necessary calls.
 - Limiting the complainant to one medium of contact (telephone, letter, e-mail etc).
 - Requiring the complainant to communicate only with one named member of staff.
 - Requiring any personal contacts to take place in the presence of a witness and in a suitable location.
 - Refusing to register and process further complaints about the same matter
15. The decision to restrict or stop a complainant's access to the Council's offices and officers may only be taken by a Head of Service or the Business Intelligence Manager.
16. The Service Manager or Information Governance Manager or Information Governance Senior Assistant will contact the Head of Service or Business Intelligence Manager to discuss why the complainant's behaviour is causing a concern, giving clear documented evidence to support this and outlining how the behaviour needs to change.
17. The Information Governance Manager or Information Governance Senior Assistant will send a letter to the complainant, outlining the discussion which has taken place with the Service Manager and Head of Service or Business Intelligence Manager along with a copy of this policy and procedure. The letter will clearly explain to the complainant the actions that the Council may take if their behaviour does not change.
18. If the behaviour continues, the Information Governance Manager or Information Governance Senior Assistant, in consultation with the relevant Head of Service or Business Intelligence Manager will make a decision as to the action to take. A letter will then be sent to the complainant outlining this decision. All letters will include:
- Why the Council has taken the decision it has;
 - What specific action the Council is taking;
 - The duration of that action;
 - The date of the three month review;

- The complainant's right to appeal against the decision to apply this policy and how to do so; and
 - The right of the complainant to contact the Local Government Ombudsman (LGO) about the fact that they have been treated under the Policy on the Management of Unreasonable Complainant Behaviour
 - A copy of the Policy on the Management of Unreasonable Complainant Behaviour
19. The decision made and letters sent will be logged on the Council's complaints system.
 20. All complainants have the right of appeal. Appeals must be made in writing to the **Head of Policy and Performance**, setting out the reasons they feel the decision to restrict access should not be implemented. The Head of Performance and Policy will consider the grounds for appeal and make the decision as to whether or not to uphold the decision to restrict access. The Head of **Head of Policy and Performance** will inform the complainant of the decision.
 21. All decisions will be reviewed after three months by the **Head of Policy and Performance** in conjunction with the Service Manager, Business Intelligence Manager, Information Governance Manager and Information Governance Senior Assistant as appropriate. A letter will be sent to a complainant after the review, outlining the decisions from the review. The review will decide appropriate action which may include removing, maintaining or modifying any restrictions.
 22. Information Governance Managers and the Information Governance Senior Assistant will keep a record of all complainants who have had this policy applied to them.
 23. Where there are instances where the relationship between the Council and a complainant who has been subject to this policy has broken down significantly, the matter can be referred to the LGO for them to consider before the Council's complaints procedures have been exhausted. Contact details for the LGO are given in the final section of this policy.
 24. The Information Governance Managers and Information Governance Senior Assistant will provide an annual report to departmental management teams and CLMT highlighting key information about customers whose behaviour has been classed as unreasonably persistent in line with this policy. This report will also include any lessons learned.

Contact information

25. For more help or information, complainants can contact Information Governance Managers or Information Governance Senior Assistant as follows:

TO BE CONFIRMED

Local Government Ombudsman

26. Contact details for the Local Government Ombudsman are as follows:

Local Government Ombudsman
PO Box 4771
COVENTRY
CV4 0EH

Phone: 0300 061 0614

Fax: 024 7682 0001

Text: "call back" to 07624 804299

Online: www.lgo.org.uk/making-a-complaint

Website: www.lgo.org.uk

Version Control

Date	Version	Reason	Owner	Author	Comments
26th January 2017	Draft 1	Draft – for agreement by Admin and Regs	BI Manager	Zoë Bulmer	Agreed with minor change
1st April 2017	Final	Process start date	BI Manager	Zoë Bulmer	